

Charter for the Mid-Atlantic Regional Planning Body

Final Charter Approved September 2014

Introduction

Recognizing that the ocean, our coasts, and the Great Lakes are among our most treasured resources and integral to our national identity and our future, Presidential Executive Order 13547, signed in July 2010 established our Nation's first *National Policy for Stewardship of the Ocean, our Coasts, and the Great Lakes*. The National Ocean Policy (NOP) provides an opportunity for interested coastal and ocean regions to engage in marine planning to promote a healthy marine environment. Marine planning is a science- and information-based tool that can help advance local and regional interests, such as management challenges associated with the multiple uses of the ocean, economic and energy development priorities, and conservation objectives. To develop marine plans, representatives from multiple levels of government work together, publicly and transparently, as a regional planning body. Their work is informed by the expertise and perspective of stakeholders whose participation ensures that the planning is based on a full understanding of the range of interests and interactions in each region. The scope, scale, and content of marine plans are defined by the regions themselves, to solve problems that regions care about in ways that reflect their unique interests, capacity to participate, and ways of doing business.

Purpose

This charter describes the purpose, participants, and a preliminary delineation of roles and responsibilities for the Mid-Atlantic Regional Planning Body (RPB) Members as they engage in regional marine planning. It will formalize member commitments to the principles of regional marine planning and to working constructively and cooperatively toward their identified regional goals and objectives. The charter is also a helpful reference for the public and partners seeking information about the roles and functions of this planning group.

It is important to note that the RPB is not a regulatory body and has no independent legal authority to regulate or otherwise direct Federal, State, Tribal, or local entities; nor does membership constitute a delegation of State or Federal decision-making or legal authority to RPB Members. Further, participation on the RPB does not commit any non-Federal RPB Members to adopt resulting products or plans.

Mission and Scope

The mission of the Mid-Atlantic RPB is to implement and advance marine planning in the region by coordinating with stakeholders, scientific, business, and technical experts, and members of the public to identify and address issues of importance to regional marine planning activities that affect the states of Delaware, Maryland, New Jersey, New York, Pennsylvania, and Virginia, and adjacent navigable waters of the United States. The RPB will agree on a manageable geographic scope consistent with a set of regional goals and will establish measurable objectives that provide clear direction, desired outcomes, and timeframes for completion. The RPB will also develop a regional work plan that describes an agreed upon strategy for pursuing regional marine planning and delivering products. Through a Regional Ocean Assessment focused on ocean resources and uses, and a Regional Capacity Assessment focused on human resources and governmental authorities, the RPB will identify existing activities and expertise that should be the starting point for subsequent planning efforts in the region. This work should be leveraged and expanded to advance a regional approach while not duplicating or hindering existing efforts.

The RPB will consult subject matter experts and those with traditional knowledge of or expertise in coastal and marine sciences and other relevant disciplines to ensure that regional marine planning is based on sound science and the best available data and information. The RPB will also ensure frequent and regular engagement of partners and the public throughout the process, including development, adoption, implementation, evaluation, and adaptive management phases of its work. The RPB commits to using the best available data in planning and also commits to developing an iterative, adaptive process to ensure that all RPB products remain living documents.

This charter reflects an agreement for planning and coordination purposes and is not binding on the members. Members agree that the commitments contained in this charter are not enforceable and do not create financial or legal obligations or affect existing rights beyond those created by existing Federal or State statute or regulation.

Relationship with Existing Authorities

The RPB is not a regulatory body and has no independent legal authority to regulate or otherwise direct Federal, State, Tribal entities, local governments, or the Mid-Atlantic Fishery Management Council (MAFMC). Agencies involved in this effort respectively administer a range of statutes, regulations, and authorized programs that provide a basis to implement regional marine planning. The process and non-binding decision-making for regional marine planning will be carried out consistent with and under the authority of these existing statutes, regulations and authorized programs.

While regional marine planning cannot supersede existing laws and agency authorities, it is intended to provide a framework for application of existing laws and authorities. Marine planning is intended to guide and align federal and State agency legal authority and decision-making, and agencies will adhere to the plan and/or other products to the extent possible, consistent with their existing authorities.

RPB Members and Roles

The RPB is committed to working together to help ensure healthy ocean and coastal resources and encourage sustainable use in order to promote the well-being, prosperity and security of present and future generations. The membership of the Mid-Atlantic RPB includes representatives from Federal, State, and Tribal authorities relevant to marine planning for the region, and the MAFMC. Federal, State, and Tribal authorities in the region will determine their own representation, identifying representatives that have professional responsibilities related to the use and management of ocean and coastal resources.

RPB member agencies will provide data, resources, and tools that may be applicable to regional planning challenges and help identify respective State legal authorities relevant to their participation. They will also work to ensure coordination of federal agency actions in support of Mid-Atlantic ocean planning goals and objectives.

RPB Member Commitments

RPB member agencies commit to participating in Mid-Atlantic regional marine planning to the extent practicable and consistent with their existing duties and authorities. RPB member agencies agree to participate in the development of a process to create and implement regional marine planning products and build a framework for improved coordination. This cooperative regional approach will foster collaboration, encourage sharing of information and best practices, help advance mutually agreed upon goals and objectives, and make more effective use of limited resources by focusing those resources on the highest regional priorities and reducing duplication of effort. Specifically, RPB member representatives or alternates will commit in good faith to:

- Fulfill the role of representing their agency, Governors, or tribe on the RPB
- Participate in and attend RPB meetings, or ensure a proxy represents their interests
- Engage in a cooperative, open, and transparent process
- Participate in the development of a process, timeline, goals, and work plan
- Incorporate the NOP goals, principles, and objectives into the planning process as outlined in the National Ocean Council's Marine Planning Handbook
- Consider providing additional support (e.g., technical assistance, data, and information) to ensure RPB functions can be fulfilled.

State Members

State representatives will represent their respective State interests, mandates, and goals in the overall regional planning process. The State RPB representative is typically an elected official, or the elected official's designated employee with the authority to act on his or her behalf on RPB matters. Each State Governor retains the authority to designate up to two representatives to serve as official representatives on the RPB from each Mid-Atlantic state.

States within the Mid-Atlantic region are:

- State of Delaware
- State of Maryland
- State of New Jersey
- State of New York
- Commonwealth of Pennsylvania
- Commonwealth of Virginia

The State RPB representative may identify a government official authorized by the RPB representative to act on his or her behalf, to serve as an alternate during RPB deliberations. The State RPB representative may also identify individuals to serve on working groups and support the RPB, as needed. Each State shall submit the names of their official representatives, alternates, and other workgroup representatives to the RPB co-leads.

Tribal Members

The National Ocean Policy explicitly recognizes the importance of enhanced coordination with federally-recognized tribal governments, specifically as it pertains to preservation of the Nation's heritage, including historical and cultural values. As participants in the regional planning process, tribes will be called upon to share their traditional knowledge and natural resource management expertise. Through this collaboration, tribes can help all participants better understand treaty rights, traditional knowledge of marine ecosystems, and tribal scientific capacity.

The RPB structure acknowledges the sovereign status of Mid-Atlantic federally-recognized American Indian Tribal Governments and recognizes the principle of government-to-government consultation. Each federally-recognized tribe is invited to have its own seat on the RPB and represent their respective tribal interests and goals in the regional marine planning process. Tribal representatives must be an elected or duly appointed tribal official, or the tribal official's designated employee with the authority to draw on other tribal expertise and act on the tribe's behalf on RPB matters. The participation of federally recognized tribes as members of the regional planning body does not supplant the obligation of the Federal Government (or in this case, the Federal Agency members of the regional planning body) to conduct government-to-government consultation with potentially affected federally recognized tribes.

Interest has been expressed by the following federally-recognized tribes:

- Shinnecock Indian Nation

Federal Members

Federal agencies will identify one representative to serve as their agency's official representative to the RPB. Federal members are subject-matter experts with sufficient seniority and expertise to enable them to represent their agencies on the RPB. While it is recognized and agreed by all signatories to this charter that Federal representatives do not have authority to direct all relevant actions in their respective agencies, they will be responsible for encouraging regional consistency with national programs and activities. As the RPB gets more specific with the development of its work plan, it is expected that Federal members will bring the full capacity of their agencies to the initiative by involving additional appropriate Federal colleagues with relevant expertise.

Federal members include:

- Department of Agriculture
- Department of Commerce
- Department of Defense
- Department of Energy
- Department of Homeland Security
- Department of the Interior
- Department of Transportation
- Environmental Protection Agency
- Joint Chiefs of Staff

The Federal RPB representative may identify a government official authorized by the RPB representative to act on his or her behalf, to serve as an alternate during RPB deliberations. The Federal RPB representative may also identify individuals to serve on working groups and support the RPB, as needed. Each participating Federal agency shall submit the names of their official representatives, alternates, and other workgroup representatives to the RPB co-leads.

Mid-Atlantic Fishery Management Council Member

Membership of one MAFMC representative on the RPB provides a formal mechanism to consider fishery related issues, which is important given the Council's unique statutory responsibilities under the Magnuson-Stevens Fishery Conservation and Management Act. The MAFMC member will have specific knowledge of fishery marine resources and management in Mid-Atlantic waters. Officials identified by the MAFMC to serve as RPB members shall represent the fishery management council in his/her capacity as Federal, State, Tribal, or local government officials.

Ex-Officio Members

The role of ex-officio members is to participate in discussions, share perspectives, and offer expertise, but an ex-officio member cannot participate in RPB marine spatial planning decisions. Given that activities in the Mid-Atlantic planning area may affect other regions

and vice-versa, ex-officio memberships may be extended by letter of invitation to representatives from adjacent states. It is desirable that State members from adjacent regional planning bodies also sit on the Mid-Atlantic regional planning body as ex-officio members to help integrate and enhance consistency across regional marine planning efforts. The RPB may also extend ex-officio status to additional Federal agencies (e.g., the U.S. Army Corps of Engineers and the Federal Energy Regulatory Commission) and federally-recognized tribes with interests in the Mid-Atlantic.

Local Government Participation

The RPB will provide mechanisms for meaningful local government input into the regional marine planning process through coordination with its state and tribal RPB members. State and tribal members will work with existing local entities to identify issues and communicate ideas back to the full RPB by establishing new forms of two-way communication or using existing consultative bodies that include but are not limited to local authorities. This approach recognizes that mechanisms for participation may evolve through time as local representatives are further engaged in the regional marine planning effort.

RPB Procedural Construct

The basic procedural elements for how the RPB will conduct business, make decisions on marine spatial planning, and dispute resolution are identified below:

The Executive Secretariat

The Mid-Atlantic RPB includes Federal, State, and Tribal representatives. The RPB has three co-leads: Federal, State, and Tribal. Federal, State and Tribal RPB members will select their respective co-leads independently. The three co-leads form the Executive Secretariat. These co-leads do not determine the focus of regional planning work; instead, their shared role is to facilitate and guide the regional planning process.

Co-leadership will be rotational and based on a two-year term. The State and Tribal co-leads have no financial obligation to support the operations of the RPB. The Federal co-lead provides the staffing and resources necessary to administer its role, to the extent resources allow.

In consultation with RPB members, co-leads may consider and decide how to fulfill the following roles and responsibilities:

- Guide, facilitate, and provide professional capacity to support timely regional work;
- Perform Executive Secretariat functions for the RPB, such as calling meetings, developing meeting agendas, taking and distributing meeting minutes, record keeping, communicating with the National Ocean Council, and performing other administrative duties, as appropriate and necessary;

- Communicate, coordinate, and when practical, collaborate with existing regional bodies such as the Mid-Atlantic Regional Council on the Oceans (MARCO), Mid-Atlantic Regional Association for Coastal Ocean Observing Systems, and others;
- Coordinate with the RPB members to establish working groups;
- Promote collaboration among RPB members and seek consensus;
- Coordinate public outreach and stakeholder engagement; and
- Facilitate development of a series of marine planning products as determined by the RPB.

Conduct of Business

The RPB will meet at the call of the Executive Secretariat in person, by phone, or other electronic means. The Executive Secretariat shall seek input on meeting agenda topics from its members. The RPB will establish procedures, based on a consensus approach, to share information, to consider and address new issues, regularly report out findings or progress made at regular meetings, and receive public comment throughout the process.

Decision-Making

Regional planning bodies may make decisions on marine spatial planning. Decisions of the regional planning body are not made by vote, but through discussion and agreement—general consensus—among the members. General consensus means the absence of express disagreement by member representatives, but does not require unanimous support, but instead has the support of each RPB member representative to agree to move forward with the decision. This approach ensures that all members of the regional planning body have an equal voice in RPB decision-making to guide the process of marine spatial planning.

Administrative Provisions

By signing this charter, RPB members agree to participate in the Mid-Atlantic regional marine planning process to the extent practicable and consistent with their existing authorities.

1. Each signature by an RPB member representative is provided on behalf of the authority their membership represents. This charter shall take effect on the date of the last approving signature.
2. The aspiration of the RPB members to achieve certain goals and outcomes does not impose any burdens or obligations on the current or future human or financial resources of the individual signatories.
3. The RPB members may modify this charter by developing and agreeing to a written amendment.
4. A new charter is not required when an RPB member representative is replaced. The new representative will be required to sign this document.
5. Following the original execution of this charter, a Federal agency, State, Tribe, or any other authority, identified through the National Ocean Council (NOC) guidance may join the RPB as member. The added RPB member representative will be required to sign this charter.

A non-Federal member may withdraw from the RPB by providing written notice to the RPB co-leads. A Federal RPB member may withdraw from the RPB by providing notice to the Federal member co-lead, and subsequent concurrence by the NOC.